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Plaintiffs and the Proposed Class*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

J. DOE 1, et al.,

*Individual and Representative Plaintiffs,*

v.

GITHUB, INC., et al.,

*Defendants.*

Case Nos.: 4:22-cv-06823-JST  
4:22-cv-07074-JST

**NOTICE OF SUPPLEMENTAL  
AUTHORITY**

1 Plaintiffs hereby notify the Court of newly issued authority relevant to their Motion to Amend  
2 and Certify the Court’s June 24, 2024 Order for Interlocutory Appeal Pursuant to 28 U.S.C. § 1292(b)  
3 (ECF No. 268). On August 12, 2024, the Honorable William H. Orrick issued an order dismissing  
4 claims under section 1202(b) of the Digital Millenium Copyright Act (“DMCA”). Order Granting in  
5 Part and Denying in Part Motions to Dismiss First Amended Complaint at 33, *Andersen et al v. Stability*  
6 *AI Ltd. et al*, No. 3:23-cv-00201-WHO (N.D. Cal. Aug. 12, 2024), ECF No. 223 (attached hereto as  
7 Exhibit 1). In pertinent part, Judge Orrick surveyed cases confronting the question of whether section  
8 1202 claims require an element of identity, including this Court’s decision in *Doe 1 v. GitHub, Inc.*,  
9 No. 22-CV-06823-JST, 2024 WL 235217 (N.D. Cal. Jan. 22, 2024) (finding section 1202 claims require  
10 “identity”) and *ADR Int’l Ltd. v. Inst. for Supply Mgmt. Inc.*, 667 F. Supp. 3d 411 (S.D. Tex. 2023)  
11 (rejecting an “identity” requirement). *Id.* at 12-13. Judge Orrick dismissed the section 1202 claim  
12 while noting that the issue of whether the DMCA contains an identity requirement “is unsettled.”  
13 *Id.* at 13.

1 Dated: August 15, 2024

Respectfully Submitted,

2 By: /s/ Joseph R. Saveri  
3 Joseph R. Saveri

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